

LANDSCAPE MAINTENANCE AGREEMENT

A.G. CONTRACT NO. KR88-082

ECS File: JPA-88-45

ARIZONA PROJECT F-016-1-523

BENSON-DOUGLAS HIGHWAY (SR 80)
(13th St-16th St)
City of Douglas

THIS AGREEMENT, made this 14th day of June, 1988, pursuant to A.R.S. Sec. 11-951 through Sec. 11-954, by and between the Department of Transportation, Highways Division, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated Department of Transportation and the City of Douglas, a municipal corporation, acting by and through its City Council, thereunto duly authorized, hereinafter designated as City.

WITNESSETH:

WHEREAS, the City is empowered by A.R.S. Sec. 9-672B to enter into this agreement and acting by and through its City Council, has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of the City; and

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City to landscape certain areas within the right-of-way on State Route 80 from centerline roadway station 62+20 (13th Street), to centerline roadway station 73+55 (16th Street), a net distance of approximately 0.21 miles.

NOW THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City, pursuant to the authority contained in A.R.S. Sec. 28-108 as follows:

1. The Department of Transportation will prepare plans for the landscaping and irrigation project and submit them to the City for approval.

2. After City approval of the plans, the project will be constructed by the Department of Transportation, using State funds. Upon completion of the work, the City shall reimburse the Department of Transportation 25% of the final construction costs.

3. The City shall furnish and install necessary water services from water mains to the designated locations within the right-of-way on State Route 80 for the landscaping from centerline roadway station 62+20 (13th Street), to centerline roadway station 73+55 (16th Street). Cost shall be a portion of the 25% matching funds and at standard water service rates, all at City expense.

4. The City shall furnish all water for landscape installation during construction phase, and all water hereafter necessary to properly maintain the landscape within the right-of-way on State Route 80 for the landscaping, all as shown on the project plans from centerline roadway station 62+20 (13th Street), to centerline roadway station 73+55 (16th Street), all at City expense.

5. After construction the City shall maintain the landscaping and irrigation system within the right-of-way on State Route 80 on both sides of the roadway from centerline roadway station 55+20 (11th Street), to centerline roadway 62+20 (13th Street).

6. The City hereby agrees to maintain the landscaping and irrigation system, in an attractive manner, as it was designed and approved by the Department of Transportation, and the City will not make any changes, additions or deletions without written approval by the Department of Transportation, Roadside Development Services.

7. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic and in conformance with the Arizona Traffic Control Manual.

8. The parties hereto further agree that to the extent permitted by law, the Department of Transportation and City agree to defend, indemnify, and hold harmless each other and their agents, officials, employees and subsidiaries, from and against any and all claims, actions, demands, liability, damage, cost and expense of whatsoever character whether direct or indirect, or consequential, including loss or damage to property of either party hereto or of their persons and for the injury or death to any or all persons caused by or attributable to the negligence or fault of the Department of Transportation or the City, their employees or agents. As to any liability claims where the parties hereto may be jointly at fault, whether or not a named defendant to an action, the parties agree that they will share in any settlement or judgment on

the amount that is proportionate to the degree of negligence or fault of the respective parties as agreed to between them or adjudicated by the courts. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in A.R.S. Sec. 12-1518 (B) and (C).

9. This agreement shall be filed with the Secretary of State and shall become effective on the date of such filing.

10. Attached hereto are resolutions of the Department of Transportation and the City authorizing both entities to enter into this agreement, and a written determination by the City Attorney of Douglas that this agreement is in proper form and within the powers and authority granted to the City under the laws of this State.

11. The effective date of this agreement shall be upon filing with the Secretary of State and shall remain in full force and effect for a period of five (5) years from the effective date unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless the parties hereto mutually agree by formal amendment reflected herein to this agreement not less than one (1) month prior to the initial or renewed expiration date.

12. All parties are hereby put on notice that this Contract (Agreement) is subject to cancellation by the Governor, pursuant to A.R.S. Sec. 38-511.

IN WITNESS WHEREOF the parties have executed two copies of this agreement on the day and year herein written.

ARIZONA DEPARTMENT OF TRANSPORTATION

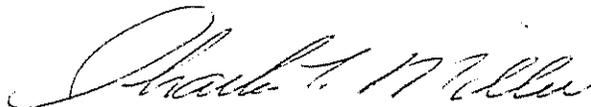
CITY OF DOUGLAS, a
municipal corporation

BY Gary K. Robinson
CHIEF DEPUTY STATE ENGINEER

BY Paul M. ...

RESOLUTION

Be it resolved on this date, June 14, 1988, I, CHARLES L. MILLER, the below undersigned Director, Department of Transportation, have determined that it is to be to the advantage of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, and the CITY OF DOUGLAS, acting by and through its CITY COUNCIL enter into the intergovernmental agency agreement for the purpose of entering in a landscape maintenance agreement for certain projects which have been selected by the State and subject to the approval of the City of Douglas as by law required; and request the City to perform certain work and supply necessary materials required to maintain the specified areas in the manner specified in the attached agreement.



CHARLES L. MILLER, Director
Department of Transportation

STATE OF ARIZONA)
): SS
County of Cochise)

I, Victor M. Stevens, City Clerk/Treasurer of
the City of Douglas, Arizona, do hereby certify that the
following is a true and correct extract of the minutes of the
City Council meeting held March 9, 1988.

In Witness Whereof, I have hereunto set my hand and
affixed the Official Seal of the City of Douglas, Arizona.
Done in Douglas, Arizona this 24th day
of March, 1988.



REGULAR MEETING - MARCH 9, 1988

The next agenda item was discussion and decision on entering into maintenance agreement with the Arizona Department of Transportation for roadside development project on A Avenue between 13th Street and 16th Street. The Mayor explained that this is the expansion project on A Avenue from the first phase. A motion was made by Councilman Shannon, seconded by Councilman Arzate that the City Manager be authorized to sign on behalf of the City for the project and that the City Attorney be authorized to get another attorney to sign documents required if ADOT could not grant the City a waiver on that legalized form. Our attorney had a conflict of interest on this project. By roll call, all voted yes and the Mayor concurred.

APPROVAL OF THE CITY ATTORNEY

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF DOUGLAS and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this _____ day of _____, 1987.

ART C. ATONNA
City Attorney

APPROVAL OF THE ATTORNEY GENERAL

I HEREBY STATE THAT I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER AND THE CITY OF DOUGLAS and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 2nd day of May, 1988.

ROBERT K. CORBIN

The Attorney General



Assistant Attorney General